

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 240, 7071, 7072, 7075, 7078, 7652, 8587.1, and 8588 of the Fish and Game Code and to implement, interpret or make specific sections 96.5, 97, 97.5, 98, 2362, 7050, 7051, 7055, 7056, 7060, 7070, 7071, 7072, 7075, 7078, 7082, 7083, 7086, 7087, 7088, 8383, 8383.5, 8385, 8587, 8587.1, 8588, 8623, 9001.5, 9001.6, 9001.7, 9027, and 9027.5 of said Code, proposes to add Article 3, sections 52.00, 52.01, 52.02, 52.03, and 52.04, 52.05, and 52.09, and amend sections 150.01, 150.16, and 150.17, Title 14, California Code of Regulations, regarding Nearshore Fishery Management Plan Implementing Regulations, and Commercial Take of Nearshore Fishes, Commercial Nearshore Fishing Gear.

Informative Digest/Policy Statement Overview

Existing laws and regulations governing fisheries for nearshore fish stocks in ocean waters off California include a combination of state and federal laws, rules, and regulations adopted by the Fish and Game Commission (Commission), Pacific Fishery Management Council (Council), California Legislature, and United States Congress. A total of 19 species of fish are presently identified in existing regulation as nearshore fish stocks [Section 1.90, Title 14, California Code of Regulations (CCR)]. These include 16 species of federally managed groundfish [thirteen species of nearshore rockfish (blue, black, black-and-yellow, brown, calico, China, copper, gopher, grass, kelp, quillback, and olive rockfishes, and treefish), cabezon, kelp greenling, and California scorpionfish], and three state managed species (California sheephead, rock greenling, and monkeyface eel).

Under existing law, the Marine Life Management Act of 1998 (MLMA) directs the Fish and Game Commission (Commission) to adopt a Nearshore Fishery Management Plan (Nearshore FMP or Plan), and to adopt implementing regulations not later than 60 days after adoption of the Nearshore FMP. The Nearshore FMP that these proposed regulations will implement, is prepared as a “project” under the California Environmental Quality Act (CEQA) . Regulations are proposed to implement the Nearshore FMP, including options from which the Commission will select measures for management of nearshore fisheries to meet the goals and objectives of the Plan and policies of the MLMA. Also, amendments to current nearshore fishery regulations are proposed, as described below.

Existing laws and regulations involving nearshore fisheries and the Nearshore FMP include the following Fish and Game Code Statutes that:

1. provide authority for the Commission to adopt regulations that implement a fishery management plan or plan amendment and make inoperative any fishery management statute that applies to that fishery [Fish and Game Code subsections 7071(b) and 8587.1(b)],
2. provide authority for the Commission to adopt regulations as it determines necessary, based on the advice and recommendations of the department, consistent with the process specified in the MLMA [Fish and Game Code subsections 7071(c) and 8587.1(a)],
3. direct the Commission to adopt a fishery management plan for the nearshore fishery on or before January 1, 2002 [Fish and Game Code subsection 7072(d)],
4. provide legislative findings and declarations for nearshore fisheries management (Fish and Game Code Section 8585.5),
5. add definitions of nearshore fish stocks, nearshore fisheries, and nearshore waters (Fish and Game Code Section 8586),
6. create a nearshore fishery permit and fee for commercial nearshore fishery (Fish and Game Code Section 8587),
7. authorize the Commission to regulate commercial nearshore fisheries (Fish and Game Code sections 7071 and 8587.1),
8. authorize the Commission revocation of a nearshore permit for a violation of nearshore statutes (Fish and Game Code Section 8589.5),
9. specify the deposition of funds from the nearshore permit and the source of funding to support preparation of the Nearshore FMP (Fish and Game Code Section 8589); and

Title 14 regulations adopted by the Commission that:

1. define *Nearshore fish stocks, nearshore fisheries, and nearshore waters* (Adoption of this regulation in December 2000 included making Fish and Game Code Section 8586 inoperative) (Section 1.90, Title 14, CCR),
2. authorize a general sport fishing daily bag and possession limit of 10 rockfish in combination of species that applies to nearshore rockfishes (Section 27.60),
3. describe authorized sport fishing seasons, minimum sizes, daily bag limits, and fishing area restrictions for nearshore rockfish, cabezon, kelp and rock greenlings, California sheephead, and California scorpionfish (Sections 27.60, 28.26, 27.65, 28.28, 28.29, 28.54, and 28.55, Title 14, CCR),
4. describe fishery management areas and cowcod closure areas where restrictions or special authorizations for sport take of nearshore fishes apply (Section 27.82, Title 14, CCR),
5. authorize the transport of sport-caught fish through a closed area (Section 27.67, Title 14, CCR),

6. set a limit of two hooks and one line when rockfish or lingcod are aboard (Section 28.65, Title 14, CCR),
7. place a moratorium on the issuance of new nearshore fishery permits and establish a control date of December 31, 1999 for purposes of establishing a restricted access nearshore fishery (Section 150, Title 14, CCR),
8. specify that a nearshore fishing permit is only required for the commercial take of the 10 species of nearshore fishes originally described in Fish and Game Code Section 8588 (Section 150.01, Title 14, CCR),
9. establish a control date of October 20, 2000 for the purpose of developing and implementing a gear endorsement program (Section 150.03, Title 14, CCR),
10. list the closed commercial seasons and areas for cabezon, kelp greenling, rock greenling, lingcod, sheephead, and specify the commercial minimum size limits for 10 nearshore fish stocks and direct that species with trip limits, size limits, or optimum yield specified shall be sorted prior to weighing and weight reported separately on the fish receipt (Section 150.16, Title 14, CCR), and
11. limit the number of hooks that may be used on a vessel to take nearshore fish stocks for commercial purposes within one mile of the mainland shore (Section 150.17, Title 14, CCR)

Regulation changes being considered by the Commission will add new nearshore fishery management provisions to Chapter 5.5 of Subdivision 1, Division 1, of Title 14, CCR to implement a Nearshore Fishery Management Plan, describe the Plan's purpose and scope, process and timing of monitoring, assessment, and management of nearshore fisheries under the plan, and provide definitions of terms used in the Plan and implementing regulations. Also, regulations proposed to be added to Chapter 5.5 describe "project" alternatives (combinations of management measures) from which the Commission will select one "project" (one or more management measures) for management of nearshore fish stocks and fisheries. Regulations proposed for consideration and adoption by the Commission also describe options for regional management, describe the basis and criteria for allocation decisions, include three options describing how allocation will be conducted, describe the process of setting Total Allowable Catches (TACs) for nearshore rockfish, add mechanisms for closing the fishery for nearshore rockfish and notifying the public, including fishery participants. Regulations would also be adopted to clarify in regulation provisions of the Fish and Game Code that describe the number of persons needing a nearshore fishery permit when taking and landing nearshore fish from a vessel, specify that nearshore fishery permits are revocable, and that the fee for a nearshore permit is \$125.00. Regulations also are proposed to specify that any nearshore fish must be measured immediately and returned to the water immediately if shorter than the minimum size limit, specify

that adoption of size limits, or changes to such limits be based on the best available scientific information and adopted following public notice and at least one public hearing, and that would require the sorting by species prior to weighing of any nearshore fish as defined in Section 1.90, Title 14, CCR. Finally, three regulatory options are being proposed that would amend commercial nearshore fishery gear regulations to: 1) either specify in one regulation areas where the current limit of 150 hooks and 15 hooks per line is in effect along the California coast, 2) restrict commercial fishing for nearshore fishes to the use of hand-line or rod-and-reel gear with not more than two hooks per line, and lines attached to the boat or person, or 3) would prohibit the take, possession, sale, landing or purchase of nearshore fish stocks from California waters.

More specifically, proposed regulation changes would:

1. add provisions that describe the purpose and scope of the Nearshore FMP, and describe the location in Title 14, CCR, of regulations that deal either with recreational or commercial fishing for nearshore species (proposed Section 52.00, Title 14, CCR),
2. provide definitions for *Allocation*, *Cape Mendocino*, *Council/PFMC*, *Fishery Control Rule*, *National Marine Fisheries Service*, *Nearshore Fishery Management Plan*, *Nearshore Rockfish*, *Overfished*, *Overfishing*, *Quota*, *Total Allowable Catch or TAC*, and *Unfished Biomass* (proposed new Section 52.01, Title 14, CCR),
3. direct that management of nearshore rockfish conform to goals, objectives, criteria, procedures and fishery control rule guidelines, describe the process and timing of nearshore fishery management, monitoring, assessment, and adoption of management measures, and authorize the Director to appoint advisory panels to provide for public input and assistance in the review of fishery assessments, management proposals, and proposed plan amendments (proposed new Section 52.02, Title 14, CCR) (proposed new Section 52.02, Title 14, CCR),
4. describe three options for achieving nearshore fishery management goals and objectives that each include one or more measures involving fishery control rules, allocation, regional management, marine protected areas, nearshore finfish conservation areas, restricted access, prohibitions on take, possession, landing, sale, and purchase of 19 nearshore species of fish from waters off California, and restrictions on commercial fishing gear that may be adopted by the Commission as an option or modified option (proposed new Section 52.03, Title 14, CCR),
5. describe three regional management options to include 1) two regions reflecting the Pacific Fishery Management Council's current rockfish and lingcod management areas, 2) three management regions in northern central, and southern California, and 3) four management regions with a

- central region divided into a north-central and south-central region (proposed new Section 52.04, Title 14, CCR),
6. provide the basis for allocation of nearshore fish stocks, factors that will be considered during changes in allocation, describe the conditions under which an allocation may be determined a routine management measure, and proposes options for determining allocation including the need to comply with Federal allocation until transfer of management authority is complete, allocation based on stock size, allocation based on economic benefit to the state, and allocation applied regionally using historic and regional information (proposed new Section 52.05, Title 14, CCR),
 7. describe how the total allowable catch (TAC) of nearshore rockfish is determined, authorize department closure of the fishery when the TAC is reached, or expected to be reached, and describe how public notice of closures will be conducted (proposed new Section 52.09, Title 14, CCR),
 8. clarify in regulation, and make consistent with current Fish and Game Code law, provisions specifying that the Nearshore Fishery permit is needed to take nearshore fishes, one Nearshore Fishery permittee must be aboard a vessel when fishing, the permit is revocable, and the fee for a permit is \$125.00 (proposed change to Section 150.01, Title 14, CCR),
 9. require that all nearshore fish defined under Section 1.90 be sorted by species prior to weighing and the weight be recorded separately on the landing receipt, and adopt as regulation current Fish and Game Code requirements that nearshore fish with size limits be measured when first brought aboard and released immediately if undersize, and that adoption of regulations setting or modifying minimum or maximum size limits be based on the best available scientific information (proposed changes to Section 150.16, Title 14, CCR), and
 10. provide three options that would either 1) clarify in one regulation the current areas identified in Fish and Game Code sections 9027 and 9027.5 where the restriction on number of hooks and lines that may be used commercially to take nearshore fishes applies off California, or 2) restrict the commercial take of nearshore fishes to the use of hand-line and rod-and-reel fishing gear, including not more than two lines per person and four lines per boat, not more than two hooks per line, and the gear must be attached to the person or vessel, with specified limits on the flexibility and breaking strength of the line and the size of the terminal weight or jig, or 3) prohibit the commercial take, possession, landing, sale, and purchase of nearshore fishes from waters off California.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lakeland Village Beach & Mountain Resort, Lake Shore Room, 3535 Lake Tahoe Boulevard, South Lake Tahoe, CA, on Thursday, June 20, 2002, at 10:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the City Hall, City Council Chambers, 990 Palm Street, San Luis Obispo, CA, on Friday, August 2, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Elihu Harris State Building, 1st Floor Auditorium, 1515 Clay Street, Oakland, CA, on Friday, August 30, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 23, 2002, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 30, 2002, at the hearing in Oakland, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Don Schultze, Marine Region, Department of Fish and Game, phone (916) 227-5670, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Generally, participants in the commercial sectors of the nearshore fishery are small business operators. The nearshore commercial fishery is conducted from small to moderately sized vessels (about 12-45 feet in length) that utilize primarily hook-and-line and trap fishing gear in nearshore waters. From one to two fishermen typically operate from a single vessel. Also, owners and operators of commercial passenger fishing vessels (CPFVs), that carry anglers fishing for a fee, operate from most major ports off California and fish, to varying degrees, for nearshore fishes. Discussions of the “Socioeconomic Benefits of the Fishery” and “Socioeconomic Dimensions of the Fishery” are included in Section 1, Chapter 4 of the Nearshore FMP.

Several measures that may potentially affect the nearshore fisheries are included with regulations being considered for adoption. Measures being considered range from no change in current management to a total prohibition on commercial sale of nearshore fish.

Department Recommended Nearshore Fishery Management Plan “Project”: As background, the Department’s Recommended Nearshore FMP Project involves a combination of management measures including a fishery control rule that integrates essential fisheries information (EFI) about the demographics of target species, the ecosystem effects of the fishery, and the effects of environmental change on the fishery. It then sets criteria for three different levels of availability of EFI: data-poor, data-moderate, or data-rich circumstances. Finally, it designs management strategies that include more or less precaution, depending on the level of EFI.

The current level of availability of EFI for almost all nearshore fishes is data poor which results in greater precautionary adjustments being utilized to address uncertainty about ecosystem effects on stocks and fisheries. Stage 1 management is slated to include a suite of management measures that can affect fishery participants. These include the use of catch history (such as that being utilized now for California sheephead, cabezon, and greenlings) for setting total allowable catches (TACs) for each species or species group of nearshore

fishes, regional management of nearshore fish stocks (three regions under the Department's preferred recommendation), allocation of the TACs of nearshore fishes between recreational and commercial fisheries, marine protected areas (MPAs) (where no fishing occurs), and restricted access (seeks to align the fishing capacity of the commercial fisheries with available fishery resources consistent with sustainable use policy of the MLMA).

As indicated above, development of MPAs and a restricted access program are works-in-progress. Therefore, in the absence of specifics regarding these measures, estimates of the economic impacts on businesses are speculative. These measures may have immediate and potentially protracted negative economic effects on nearshore fishery businesses due to their expected curtailment of fishing in MPAs and by elimination of some fishery participants that do not meet restricted access criteria. However, in the long-term, healthier (more sustainable) stocks of nearshore fishes and a nearshore fleet that is in better balance with available nearshore resources, should have positive economic effects on those continuously involved in the fishery.

This leaves the effects of setting TACs using catch history, regional management, allocation, and gear restrictions (the later are alternatives to the "recommended" management approach) as the principal measures being considered that may have an economic impact on small businesses.

Determination of Total Allowable Catch (TAC): TAC for Stage 1 (data-poor) management will utilize catch history under the preferred option. Determination of the TACs for individual species of nearshore fishes, and for nearshore rockfish as a species complex, are proposed to be the same as last year. Therefore, adoption of annual catches as proposed should result in no immediate new economic effects on the fisheries. The proposed regulations would authorize the Commission to use measures such as a restrictions in catch, time, area, or gear to keep harvests within total allowable catches. These actions have the potential for causing adverse economic effect in the fishery in the short term, but should result in long-term positive impacts due to increased sustainability of the nearshore fishery resources resulting in increased total fishery harvests over time.

Regional Management (proposed Section 52.04),

Three regional management options are proposed that include: two management regions that correspond to the current management areas created under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan; three management areas south of the California-Oregon border, a north coast region, a central coast region, and a south coast

region (the Department's recommended preferred alternative); and four management areas south of the California-Oregon border, a north coast region, a north-central coast region, a south central coast region, and a south coast region.

Economic impacts on the nearshore fisheries as a whole are not expected to result from adoption of a regional management option because no changes are proposed at this time to the total annual catches of nearshore fish stocks. Allocations of the total annual harvests among regions might change the total take of nearshore fish stocks within a particular region, compared with recent historic catches. However, active markets will tend to distribute nearshore fisheries goods and services statewide, according to consumer demand.

Potential economic impacts from allocation of annual catches for a fishery in different regions might range from no impact, to moderate impacts, depending on the region, the species, or species group for which annual catches are being allocated, and the allocation methodology utilized to apportion total annual harvests between regions. The current nearshore fishery has expanded coastwide in recent years with the fishery generally expanding from south to north in the state. Also, different species of nearshore fish predominate in the catch in different areas of the coast. If catches made during recent years are used to apportion annual harvests within a fishery, as anticipated, the impacts are expected to be negligible. However, if an extended past series of years of either sport or commercial catch data is used to determine allocations within a fishery for different regions in the state, allocations of annual harvests might differ from the current proportions that exist for landings made along the coast. This might result in a fishery in a region being allocated a larger or smaller catch than has traditionally been taken during the year. Economic impacts are expected to be dealt with and losses minimized prior to allocation of nearshore annual catches by region through more detailed examination of catch records for species, pounds and value of fish caught and landed in each region, and through interactions with fishery participants. Long-term economic benefits are expected as a result of abating the collapse of the nearshore fishery, due to overharvesting under current regulations, and benefits will result from rational allocation approaches that maximize the value of the resource used.

Allocation (proposed Section 52.05):

Options for determining allocation are proposed. Presently Commission allocations between sport and commercial fisheries have been made only for California sheephead, cabezon, and greenlings using historic catch data, while the Council has allocated nearshore rockfish. If allocation ratios for these species change due to a change in the method of determining allocation, either

a positive or negative economic impact could result to one of these fisheries depending on whether the fishery is allocated more or less of the annual harvest. No changes were made in 2002 to the authorized annual harvests (OYs) set during December of 2000 for these species, so potential economic impacts of changes in allocation would result from a shifting of authorized take from one fishery to the other. Also, if the Commission chose to reallocate unused annual catch from a fishery that is not expected to fully utilize its allocation, this could have an immediate positive economic impact on the fishery receiving the additional allocation by providing for its continued operation, and would result in full utilization of the entire authorized annual catch.

The current allocation process for sheephead, cabezon, and greenlings utilize a ratio of historic catches for 1983 through 1989 and 1993 through 1999. The Department's preferred Option 1 would utilize this same approach but apply it regionally to three regions along the coast, and include a careful review of commercial and recreational landings. This option may result in some changes in allocation of cabezon and greenling (allocation would not be expected to change for sheephead which are taken primarily in one of these regions), if the ratio of catches for the central and northern regions differs from the current statewide allocation, which presently allocates the majority of annual harvest to the recreational fishery. Regional data have not yet been developed to further evaluate the effects of allocation on a regional basis.

Also being considered are an allocation based on stock size, and an allocation based on economic benefits to the state. There is insufficient information presently available to determine whether there would be a significant change in allocation ratios between sport and commercial fisheries under the three options. Estimates of actual stock sizes are not presently available to determine if greater or lesser annual harvests could be authorized under this option (Option 2). Recreational interests would benefit initially under this alternative. Subsequently, as biomass increases, increasing annual harvests, up to a point, would be allocated to the commercial fishery under this option until parity between sport and commercial annual harvests are reached at which point their annual harvest would increase equally. With regard to allocation based on economic benefit to the state (Option 3), statewide and regional economic and fisheries data needed to allocate nearshore fishery TACs on this basis are not presently available. Therefore, allocation projections between major user sectors and estimates of economic impacts cannot be derived at this time.

Limit Commercial Fishing for Nearshore Fishes to Handlines and Rod-and-Reel Gear (proposed amendments to Section 150.17):

This proposal was considered late last year in a separate rulemaking during Commission adoption of interim nearshore fisheries management regulations. As indicated above, the Commission declined to proceed with the proposal at that time and directed that it be considered as a management alternative within the Nearshore FMP.

There are several economic aspects to consider in contemplating a gear restriction that would constrain commercial fishermen in the nearshore to using rod-and-reel gear. In general, this approach will result in substantial increases in operating costs to the commercial fishery, because commercial fishermen are required to use relatively inefficient hand-line or rod-and-reel gear (two lines per person with two hook limits per line).

Increased costs of harvesting will result in increased prices to end buyers and consumers. As a result, individual consumers will likely decrease their demand for commercial products in response to increased prices (due to price elasticity of consumer demand). Reduced demand and purchases of commercial products, plus shifts to substitutes for commercial products, further exacerbate direct economic losses to fishermen as their market share for commercial products erodes. Empirical evidence and economic theory project that consumers will purchase less of the fishery products when the price is increased. As a result, consumer market share for nearshore seafood products will erode as consumers, faced with price increases, choose to purchase fewer nearshore fishery products or choose to purchase more of some other substitute product. In either case, the commercial fishing industry loses some measure of market share for its nearshore fishery products.

Effects on profits and business activities in the commercial sector ultimately radiate into the local economy and fishing community as changes to revenue, income, and employment. The relatively inefficient rod-and-reel gear reduces harvest efficiency for the fishermen (relative to existing commercial gear), causing fishermen to either fish this gear harder in order to maintain their economic standing or reduce their scale of business operations to accommodate the harvest limitations of the gear, or both. Fishing the gear harder could entail an increase in number of trips per day or hours fished per day. Alternatively, since the gear requires direct attachment to a person, the fisherman may try to employ additional crew (subject to physical and safety limitations of the vessel) in order to fish more hooks at a time. In either case, the net economic returns from commercial fishing are curtailed for small, medium, and large-scale fishing operations that harvest the nearshore area.

A hand-line/rod-and-reel gear limitation and the resulting revenue effect to fishermen, would likely put moderate-to-large-scale commercial fishing operations out of business if they are primarily dependent on the nearshore fishery. This is because the return on investment, or capital, under this gear constraint would probably not cover their fixed costs for vessel and equipment. Furthermore, the resale and salvage value of their existing gear (and vessel) is greatly diminished, hampering their ability to liquidate assets and invest in some other occupation or fishing activity.

Another result of increased harvest costs occurs in the consumer markets for nearshore fishery products, where prices for fishery end products would increase. This is the result of increased costs of production at the harvest and intermediate product levels being carried into the consumer market (where fishery end products and services are bought and sold).

Losses in market demand and market share result in decreases in revenue and revenue potential. Under declining market conditions there is some critical level of market share below which the product is no longer viable. When this happens the product leaves the consumer domain of normal goods, and either disappears or is relegated to an inferior good or specialty item. Complementary goods or bundled items that would usually be purchased along with the fishery product are also affected as their market demand declines too. Lastly, the ripple effect of declining market share and revenue losses for commercial fishermen comes to rest in the local economies and fishing communities dependent on the nearshore. Such downstream effects can manifest as changes in entire local economies, including ancillary industries, local personal income, and local employment.

Restrict the Take, Possession, Landing, Sale, and Purchase of Nearshore Fish Stocks from Waters off California (proposed amendment to Section 150.17):

This option (Option 3) would likely result in the elimination of the commercial take of nearshore fish stocks. The annual ex-vessel value of commercial landings of nearshore fish stocks in 1999 was approximately \$3.3 million, or the equivalent of \$3.5 million in year 2000 dollars. This could be a fair approximation of the expected economic impact to commercial fishermen of a total commercial closure to the take of nearshore fish stocks in state waters off California. The economic impact to associated fish businesses would be additive to the ex-vessel value impact to the extent that these other fish businesses rely on the purchase and sale of nearshore fish stocks. Using economic multipliers for the State, the projected economic loss of \$3.5 million (ex-vessel), would result in an additional loss of \$3,285,900 to related industries

in the State (that rely on or use the ex-vessel products). Consequently, the total economic loss to the State may be as much as \$6.8 million.

Furthermore, as for the hand line/rod-and-reel Option 2 above, the resale and salvage value of existing gear (and vessel), while not quantified here, is greatly diminished under this option, hampering fishermen's ability to liquidate assets and invest in some other occupation or fishing activity.

The Commission has made an initial determination that the adoption of these regulations may have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
 - (ii) consolidation or simplification of compliance and reporting requirements for businesses;
 - (iii) the use of performance standards rather than prescriptive standards; or
 - (iv) exemption or partial exemption from the regulatory requirements for business.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Some of the alternatives associated with regulatory options being considered for adoption could result in the elimination of jobs within the state. The most apparent of these are options that would result in significant restriction of commercial fishing for nearshore fish stocks to rod-and-reel fishing gear, and a prohibition on the take, possession, landing, sale, or purchase of nearshore fish stocks from waters off California (Options 2 and 3 under Section 150.17) [also see discussion above under VI(a)]. At a minimum, it is likely that either of these options would result in the need for some commercial nearshore fishermen that now rely on this fishery to consider other lines of work.

- (c) Cost Impacts on a Representative Private Person or Business: The cost impacts to a representative private persons or business are generally included in the discussion of impacts under (a).
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.

Costs to the Department associated with adoption and implementation of the proposed regulations are primarily those related to management, enforcement, and research needed to achieve nearshore fisheries management and regulation under the Nearshore FMP (Table 1).

Table 1. Estimated Annual Nearshore FMP Management, Enforcement and Research Costs

Description	Baseline	Redirection	New	FMP Ref. Sec.*
Management	\$1,294,000			Sec.1, Ch.5
Restricted Access	\$ 90,000		\$90,000	
Regional Allocation	\$ 90,000		\$90,000	
Enforcement	\$1,382,000			Sec.1, Ch.5
MPA Component			\$1,100,000	
Research	\$1,106,000			Sec.1, Ch.5
Coordination Unit		\$290,000		
North Coast Region		\$ 76,500	\$ 25,500	
Central Coast Region		\$917,500	\$306,500	
South Coast Region		\$636,000	\$212,000	
CFIS/MFSU			\$170,000	
Log Book Analysis			\$130,000	
Socio-Economic Studies			\$210,633	
Stock Abundance Studies			\$500,000	
Age/Growth Studies			\$238,700	
Education/Outreach			\$157,000	
Total Cost	\$3,962,000	\$1,920,000	\$3,230,333	

* For additional detail on how cost estimates were derived and further description of the identified needs, refer to the appropriate sections of the Nearshore FMP.

The current costs of management, enforcement, and research are based on expenditures during the state fiscal year for 2000-2001 (July 1 through June 30 of the following year). These baseline costs are anticipated to continue at this level with implementation of the Nearshore FMP.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: June 4, 2002

John M. Duffy
Assistant Executive Director